

REMARKS / ARGUMENTS

The present application includes pending claims 1-30, all of which have been rejected. By this Amendment, claims 1-21 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Initially, the Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should state all reasons and bases* for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

See Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth "all reasons and bases" for rejecting the claims.

Claims 1-30 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,931,475, issued to Huang (hereinafter, Huang), in view of U.S. Patent No. 6,950,895, issued to Bottom (hereinafter, Bottom). The Applicant respectfully traverses these rejections at least based on the following remarks.

REJECTION UNDER 35 U.S.C. § 103

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure ("MPEP") states the following:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine the teaching. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

See MPEP at § 2142, citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) (emphasis added). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art suggests the desirability of the combination," and that "although a prior art device 'may be capable of being modified to run the way the apparatus is claimed, there must be a *suggestion or motivation in the reference* to do so'" (citing *In re Mills*, 916 F.2d 680, 16 USPQ 2d 1430 (Fed. Cir. 1990)). Moreover, MPEP § 2143.01 also states that the level of ordinary skill in the art

cannot be relied upon to provide the suggestion...,” citing *Al-Site Corp. v. VSI Int’l Inc.*, 174 F.3d 1308, 50 USPQ 2d 1161 (Fed. Cir. 1999). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness.

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

I. The Proposed Combination of Huang and Bottom Does Not Render Claims 1-30 Unpatentable

The Applicant now turns to the rejection of claims 1-30 as being unpatentable over Huang in view of Bottom. The Applicant notes that the proposed combination of Huang and Bottom forms the basis for all of the pending rejections.

A. Independent Claim 1

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Huang and Bottom does not disclose or suggest at least the limitation of “determining whether one or both of at least a second blade server of said plurality of blade servers and a network is to receive said at least said first packet,” as recited by the Applicant in independent claim 1.

The Office Action states the following:

The blade server system 100 is designed to select a blade server 200 by pressing a button 210 which sends an information signal to management board 260 (col.3, lines 12-25; receiving from a first blade server a first packet). A network 290 is used to switch from one blade server 200 (the first blade server) to a new selected blade server 200 (determining a second blade server) by requesting the management board 260 to switch to the selected blade server 200 (see col.3, lines 45-55; determining a network and a second blade server 200 that is to receive the first packet).

See Office Action at pages 2-3 (emphasis added). The Examiner is relying for support on the following citation from Huang:

A further control method is to select the new blade server 200 by way of the network 290. By way of the internet or local area network, the user can directly request that the management board switch to the new selected blade server 200. The user can therefore use the network 290 to control and monitor the new selected blade server 200. Hence, the user can control the blade server system according to the present invention in any part of the world by way of the internet. Because the management blade sends encoded information, including a series number for indicating the selected blade server 200, to the blade servers 200 and the blade servers 200 to decode the information by the decoders 230, the quantity of blade servers 200 can be easily expanded.

See Huang, col. 3, lines 45-55. The Applicant respectfully disagrees with this argument. The Applicant points out that **the above citation of Huang merely discloses a method of selecting a new blade server 200.** For example, referring to Figure 2 of Huang, Huang discloses that the blade server 200 may be selected by a user via two ways. Namely, the blade server 200 may be selected by pressing the select button 210 on the respective blade server 200. See Huang,

Figure 2 and col. 3, lines 12-25. This method of selection may also be seen in Figure 1 of Huang, where each of the blade servers 120 may be selected by pressing the corresponding select button 122. The second way of selecting a blade server 200 is stated in the above citation used by the Examiner. Namely, the blade server 200 may also be selected, as well as controlled and monitored, by a user via the network 290. In this regard, **Huang, including col. 3, lines 45-55, never discloses or suggests that packets from one blade server may be received by a second blade server or by a network**, as recited in Applicant's claim 1.

In contrast, referring to Applicant's claim 1, after a first packet is received from a first blade server, a determination is performed as to whether at least a second blade server and/or a network is to receive the packet from the first blade server. The Applicant points out that there is no such determination disclosed by Huang. **In fact, Huang does not even disclose that packets from one blade server may be received by a different, second blade server. The Applicant submits that the way of operation disclosed by Huang is incompatible with the way of operation as recited in Applicant's claim 1, since Huang allows for selection of only a single blade server and does not disclose or suggest communication of data between blade servers and/or between blade servers and a network.** Bottom does not overcome the deficiencies of Huang.

Therefore, the Applicant maintains that the combination of Huang and Bottom does not disclose or suggest at least the limitation of "determining whether one or both of at least a second blade server of said plurality of blade servers and a network is to receive said at least said first packet," as recited by the Applicant in independent claim 1.

Accordingly, the proposed combination of Huang and Bottom does not render independent claim 1 unpatentable, and a *prima facie* case of obviousness has not been established. The Applicant submits that claim 1 is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

B. Rejection of Dependent Claims 2-10, 12-20, and 22-30

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 103(a) as being unpatentable over Huang in view of Bottom has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-10, 12-20, and 22-30 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

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The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-30.

CONCLUSION

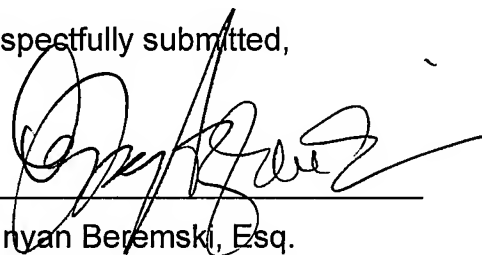
Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

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Respectfully submitted,



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